IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.SASIDHARAN NAMBIAR

TUESDAY, THE 23RD JANUARY 2007 / 3RD MAGHA 1928

WP(C).No. 2592 of 2007(H)

AGAINST THE ORDER IN IA .3989 of 2006 IN OS.988/2003 of MUNSIFF COURT,CHAVAKKAD

.....

PETITIONER:

SANKARAN BHATTATHIRIPPAD,
S/O.SHANKARAN BHATTATHIRIPAD,
AGED 56 YEARS, VELLARAKKAD, KADANGODE,
THALAPPILLY TALUK, THRISSUR DISTRICT.

BY ADV. SRI.P.RAMACHANDRAN

RESPONDENTS:

RADHAKRISHNA KURIES (P) LTD.,
GURUVAYOOR P.O., THRISSUR DISTRICT.

BY //

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 23/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.SASIDHARAN NAMBIAR,J.

W.P.(C) .NO. 2592 OF 2007

Dated 23rd January 2007

J U D G M E N T

Petitioner is plaintiff and respondent defendant. Before completing evidence of plaintiff petitioner/defendant filed I.A.3989/06, an application for a direction to plaintiff to produce day book and ledger and loan application contending that those documents are relevant and necessary to prove that disputed promissory note was not executed by petitioner and there is no transaction as claimed by respondent. Under Ext.P4 order learned Munsiff dismissed the application for the sole reason that petition is belated.

2. Learned counsel appearing for petitioner was heard.

3. Argument of learned counsel appearing for petitioner is that learned Munsiff should not have dismissed the application only on the ground of delay as plaintiff could have produced the document and learned Munsiff has not even posted the petition for

objection.

4. Ext.P3 order shows that application was dismissed only on the ground of delay. Question whether documents are relevant or necessary was not considered by learned Munsiff. If a party is in possession of a document which throws light into the controversy, even without an application by the other side, he has a duty to produce the same and if not necessary inference can be drawn. In such circumstance, Ext.P4 order is quashed. Learned Munsiff is directed to re-consider I.A.3989/06 and pass appropriate order in accordance with law.

Writ petition is disposed accordingly.

M.SASIDHARAN NAMBIAR,
JUDGE.

uj.